

JUL 31 2020

SUSAN M. SPRAUL, CLERK
U.S. BKCY. APP. PANEL
OF THE NINTH CIRCUITUNITED STATES BANKRUPTCY APPELLATE PANEL
OF THE NINTH CIRCUIT

In re:

JOSHUA NEIL HARRELL,

Debtor.

JOSHUA NEIL HARRELL,

Appellant,

v.

U.S. TRUSTEE; ALAN S. FUKUSHIMA,
Chapter 7 Trustee,

Appellees.

BAP No. EC-20-1091

Bk. No. 20-21228

District Court No.

2:20-mc-0216 MCE KJN (PS)(BK)

ORDER TRANSFERRING
IFP MOTION TO DISTRICT
COURT

Before: GAN and FARIS, Bankruptcy Judges.

Appellant filed a motion for leave to proceed *in forma pauperis* with respect to this appeal ("IFP Motion"). An order was issued by the BAP Clerk, giving the bankruptcy court the opportunity to make a certification under 28 U.S.C. § 1915(a)(3) regarding whether the appeal is frivolous. The bankruptcy court did not issue a certification.

Under the holding of *Perroton v. Gray* (*In re Perroton*), 958 F.2d 889 (9th Cir. 1992) and *Determan v. Sandoval* (*In re Sandoval*), 186 B.R. 490, 496 (9th Cir. BAP 1995), the Bankruptcy Appellate Panel has no authority to

grant or deny in forma pauperis motions under 28 U.S.C. § 1915(a) because bankruptcy courts are not "court[s] of the United States" as defined in 28 U.S.C. § 451.

Therefore, appellant's IFP Motion is hereby TRANSFERRED to the United States District Court for the Eastern District of California for the limited purpose of ruling on the IFP Motion. It is appellant's responsibility to take all necessary steps to have the IFP Motion considered by the district court within a reasonable period of time.

No later than **Monday, August 31, 2020**, appellant must file with the Panel and serve on opposing counsel a written response which includes as an exhibit a copy of the district court's order on the IFP Motion or an explanation of the steps appellant has taken to have the IFP Motion considered by the district court. For the convenience of the district court, copies of the notice of appeal, the order on appeal, and the IFP Motion are attached to this order.

Appellees' obligation to file responsive briefs is hereby EXTENDED until FOURTEEN (14) days after resolution of the IFP motion by the district court.

Failure to comply with the requirements of this order may result in dismissal of this appeal for lack of prosecution without further notice to the parties.

Therefore, appellant's IFP Motion is hereby TRANSFERRED to the United States District Court for the Eastern District of California for the limited purpose of ruling on the IFP Motion. It is appellant's responsibility to take all necessary steps to have the IFP Motion considered by the district court within a reasonable period of time.

No later than **I'll put in a date 30 days from entry of this order**, appellant must file with the Panel and serve on opposing counsel a written response which includes as an exhibit a copy of the district court's order on the IFP Motion or an explanation of the steps appellant has taken to have the IFP Motion considered by the district court. For the convenience of the district court, copies of the notice of appeal, the order on appeal, and the IFP Motion are attached to this order.

Appellees' obligation to file responsive briefs is hereby EXTENDED until FOURTEEN (14) days after resolution of the IFP motion by the district court.

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